IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2803 OF 2004

IN

SUIT NO.2648 of 1995

...

Smt.Suparna Tapan Das ....Plaintiff

v/s.

Shri Alok Ajit Pal & Anr. ....Defendants

And

The Oxford Co.operative

Housing Society Ltd. ....Respondent

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Mr.Pankaj Kawli i/b U.M.Jhaveri for the Plaintiff.

Mr.Anand Grover i/b Prakash Mahadik for Defendants Nos. 1 & 2.

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CORAM: D.K.DESHMUKH, J.

DATED: 8TH SEPTEMBER,2005

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. By this Notice of Motion, the Plaintiff is seeking interim orders against the Respondent.

2. On being asked, the learned Counsel appearing for the Plaintiff stated that this Notice of Motion has been taken out under the provisions of Order 39 Rules 1 & 2 of the Civil Procedure Code.

3. After reading out the provisions of Order 39 of the C.P.C. the learned Counsel is not in a position to satisfy that under any of the provisions of Order 39 this motion is maintainable. The Respondent is not a party to the suit. There is no relief claimed against the Respondent in the suit, therefore, it is obvious that no relief can be granted by this motion against the Respondent. It is further to be seen that the reliefs which are claimed by this Notice of Motion, by no stretch of imagination can be said as interim relief in aid of the final reliefs that the Plaintiff is claiming in the suit. In short this is

a frivolous Notice of Motion taken out by the Plaintiff, in hearing which the court has to spend its time. In my opinion, therefore, not only this Notice of Motion is liable to be dismissed, but exemplary costs have to be saddled on the Plaintiff for taking out such frivolous Notice of Motion. Notice of Motion is, therefore, dismissed . Plaintiff is directed to pay Rs.15,000/- as costs of this Notice of Motion to the Defendant No.1.

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